

United States Bankruptcy Court
61288, Houston TX 77208SOUTHERN DISTRICT OF TEXAS P.O.Box
(Houston Division)

PROOF OF CLAIM

Name of Debtors		Case Number	Creditor ID#: 788-64741 United States District Court Southern District of Texas FILED JUL 10 2000 Michael N. Milby, Clerk
<input type="checkbox"/> Stage Stores, Inc., a Delaware corporation <input checked="" type="checkbox"/> Specialty Retailers, Inc., a Texas corporation <input type="checkbox"/> Specialty Retailers, Inc. (NV), a Nevada corporation		00-35078-H2-11 00-35079-H2-11 00-35080-H2-11	
*place an "x" beside the name of the Debtor you are filing a claim against			
Name of Creditor (The person or other entity to whom the debtor owes money or property): Westgate, Inc.		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	
Name and address where notices should be sent: *****AUTO**ALL FOR AADC 625 Westgate, Inc. PO Box 942 Streator IL 61364-0942 [Barcode]			
Account or other number by which creditor identifies debtor:		Check here _____ replaces if this claim _____ amends a previously filed claim, dated: _____	
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other <u>Lease Agreement</u>		<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (Fill out below) Your SS#: _____ Unpaid compensation for services performed from _____ to _____ (date) (date)	
2. Date debt was incurred: <u>April 12, 1995</u> <i>Lease Copy Included</i>		3. If court judgment, date obtained:	
4. Total Amount of Claim at Time Case Filed: <u>\$ 4071.66 per month for 5 years & 6 months (until Jan. 31, 2006)</u> If all or part of your claim is secured or entitled to priority, also complete Item 5 or 6 below. <u>4000/Mo Rent + \$3600/Mo Fire Protection + 41.66/Mo</u> <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
5. Secured Claim. <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other All personal and intangible property of Debtor's Estate Value of Collateral: \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any \$ _____		6. Unsecured Priority Claim. <input checked="" type="checkbox"/> Check this box if you have an unsecured priority claim Amount entitled to priority <u>\$ 4071.66 per month for 5 years & 6 months (through Jan. 31, 2006)</u> Specify the priority of the claim: <input type="checkbox"/> Wages, salaries, or commissions (up to \$4,300)* earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Up to \$1,950* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(6). <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input checked="" type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a-____). <u>Lease</u> *Amounts are subject to adjustment on 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.	
7. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.		This Space is for Court Use Only	
8. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.			
9. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date <u>7/5/00</u>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): <u>Westgate Inc by: Jeffery C Williams Secretary</u> <u>Westgate Inc by: Jeffery C Williams Secretary</u> Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.		

Copy

SHOPPING CENTER LEASE AGREEMENT

This Shopping Center Lease Agreement is entered into as of the 12th day of April _____, 1995 by and between the Landlord and the Tenant hereinafter named.

ARTICLE 1 - DEFINITIONS AND BASIC LEASE PROVISIONS

- 1.1 Landlord: Westgate, Inc.
- 1.2 Landlord's Address: P. O. Box 942
Streator, Illinois 61364-0942
- 1.3 Tenant: Palais Royal, Inc.
- 1.4 Tenant's Addresses:
- Demised Premises: 224-236 Pratt Street
Westgate Plaza
Streator, Illinois 61364-2762
- Principal Office: 10201 South Main (77025)
P. O. Box 35167
Houston, Texas 77235-5167
Attn: Vice President of Real Estate and President
- All notices given to Tenant shall be sent individually to both of the officers above under separate cover.
- 1.5 Tenant's Trade Name: "Stage" or such other trade names that are used for a majority of Tenant's other stores operating under the Stage trade name.
- 1.6 Additional Charges: All rental and other amounts payable under this Lease by Tenant, other than Minimum Guaranteed Rental and Percentage Rental.
- 1.7 Commencement Date: August 3, 1995, or upon the date when Tenant opens for business whichever date shall first occur.
- 1.8 Delivery Date: The date on which Landlord delivers the Demised Premises to Tenant, but in no event later than April 15, 1995.
- 1.9 Demised Premises: Approximately 23,735 square feet of space in the Shopping Center and being the space cross-hatched on the Site Plan.
- 1.10 G.L.A.: For purposes of calculating Rent and Tenant's Pro Rata

Share of any costs, expenses or any other item under the Lease, the G.L.A. of the Demised Premises shall be deemed to be the 23,735 square feet. However, within 180 days after the Delivery Date either party may request that both parties together remeasure the Demised Premises to confirm the actual square footage. If such remeasurement results in a different square footage, then Tenant's Pro Rata Share of costs and expenses shall change accordingly.

- 1.11 Lease:** This Shopping Center Lease Agreement.
- 1.12 Lease Term:** The period beginning on the Commencement Date and ending on 1/31/2006 and as may be extended pursuant to Article 2 hereof.
- 1.13 Lease Year:** In the case of the first Lease Year, the period beginning on February 1, 1996 and ending on the last day of January 1997. Such first Lease Year shall not include the partial year, from the commencement of the Lease Term to 1/31/96. Each subsequent Lease Year shall be the period of twelve (12) full calendar months commencing with February 1 and ending on January 31 of the following year.
- 1.14 Minimum Guaranteed Rental:** \$4,000 per month (\$48,000 per year) for the Demised Premises.
- Minimum Guaranteed Rental for any option period extending the Lease Term shall be determined and payable in accordance with Section 2.3 of this Lease.
- 1.15 Percentage Rental:** Four percent (4.00%) of the amount, if any, by which the Gross Sales for any calendar year exceeds the Percentage Rental Breakpoint.
- 1.16 Percentage Rental Breakpoint:** For the time period from the Commencement Date to January 31, 1996, the amount shall be \$600,000. For any calendar year, the amount shall be \$1,200,000.
- 1.17 Permitted Use:** The sale, distribution and

storage and/or marketing of any one or more of the following types of merchandise and/or services:

- (i) Ladies' ready-to-wear and wearing apparel;
- (ii) Men's ready-to-wear and wearing apparel;
- (iii) Children's and infants' ready-to-wear and wearing apparel and children's furniture;
- (iv) Intimate apparel;
- (v) Related accessories, including shoes;
- (vi) Jewelry and gift items incidental to the sale of other merchandise; and
- (vii) The incidental sale of such other types of merchandise and/or services customarily or frequently sold in the majority of the "Stage" stores then owned or operated by Tenant.

1.18 Rent or Rental: All Minimum Guaranteed Rental, Percentage Rental and Additional Charges, if any.

1.19 Shopping Center: Westgate Plaza Shopping Center, a commercial shopping center consisting of the existing buildings, parking areas, sidewalks, service areas and other improvements now existing or hereafter erected on the land located in the City of Streator, Illinois, more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes.

1.20 Site Plan: The map outlining the Shopping Center and showing the Demised Premises in relation thereto, attached hereto as Exhibit "B" and made a part hereof for all purposes.

1.21 Tenant's Pro Rata Share: A fraction having as its

numerator 23,735 the G.L.A. of the Demised Premises, as set forth in Section 1.10, and having as its denominator 67,560 the total number of square feet contained in all rentable space in all buildings in the Shopping Center (whether or not actually leased), including any storage space that is leased or is leasable, on the first day of January for the relevant calendar year for which any calculation of Tenant's Pro Rata Share is being made. The Landlord and Tenant stipulate, however, that as of the date hereof, the Tenant's Pro Rata Share is 35.2% and in no event shall it be greater during the Lease Term, as may be extended. It is further understood and agreed that the total G.L.A. of the Shopping Center for purposes of calculating Tenant's Pro Rata Share shall not be decreased by Landlord converting otherwise leased or leasable space into storage space, Common Area or space for the use of Landlord or Landlord's agents/managers.

1.22 Tenant's Pro Rata
Share of Common Area
Costs: None

1.23 Tenant's One Half of the
Increase of Insurance
Premiums: One-half (1/2) of the amount of the increase, if any, of Insurance Premiums over those for the year 1994, which are agreed to be \$4,153.62 payable as provided in Section 17.3.

1.24 Tenant's Half of
the Increase of
Taxes: One-half (1/2) of the amount of the increase, if any, of Taxes over those for the year 1994, which Taxes are agreed to be \$9,381.24 payable as provided under the provisions of Section 17.2. This is 100% of the Lot 5 Real Estate Tax Bill.

1.25 Construction of
Definitions: Each of the foregoing definitions and basic provisions shall be construed

in conjunction with and limited by the references thereto in the other provisions of this Lease. If there is any conflict between any of the Lease provisions in this Article 1 and any other provisions of this Lease, the latter will control.

1.26 Three Year Re-evaluation

Date:

The twelve month period from February 1, 1998 through January 31, 1999 to which Paragraph 2.3 will be applied to determine the Minimum Guaranteed Rental during the balance of the lease term.

ARTICLE 2 - TERM

2.1 In consideration of the obligation of Tenant to pay Rent as herein provided and perform Tenant's other obligations performable by Tenant under the provisions of this Lease, and in consideration of the other terms, covenants and conditions hereof, Landlord hereby demises and leases to Tenant, and Tenant hereby takes from Landlord, the Demised Premises. TO HAVE AND TO HOLD the Demised Premises for the Lease Term all upon the terms and conditions set forth in this Lease. Landlord further agrees that if Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this Lease, at all times during the continuance of this Lease have peaceful and quiet possession of the Demised Premises.

2.2 **Option Periods.** Tenant may extend the Lease Term two (2) consecutive five (5) Lease Year periods if (i) Tenant sends written notice to Landlord of its intention to do so at least one hundred eighty (180) days prior to the end of the then existing Lease Term and (ii) the Tenant is not then in default under the Lease. During any such extended period of the Lease Term, the terms and provisions of this Lease shall remain the same except for the payment of Minimum Guaranteed Rental and Percentage Rent, which shall be determined as set forth below.

2.3 **Minimum Guaranteed Rental during Extended Lease Term.** During each five-Lease Year extension period, Tenant shall pay to Landlord Minimum Guaranteed Rental in monthly installments in an amount equal to the greater of (i) one-twelfth (1/12th) of eighty percent (80.00%) of the average annual Minimum Guaranteed Rental and Percentage Rental paid for the three (3) Lease Year period immediately preceding such five-Lease Year extension period of (ii) the monthly Minimum Guaranteed Rental payable during the immediately prior Lease Year. Each installment of Minimum Guaranteed Rental shall be payable on or before the first day of each calendar month during the Lease Term as extended hereunder. In the event that the parties are unable to calculate the exact dollar amount of any Minimum Guaranteed Rental for any extension period by the first day of such option period, the Tenant shall continue to pay the amount of Minimum Guaranteed Rental then being paid by Tenant to Landlord until such time as the necessary information is available and the new Minimum Guaranteed Rental is calculated, which date shall not be later than April 15 of the first year of an extended lease term. Upon such calculation, if the new Minimum Guaranteed Rental is different than that being paid, the parties shall make any adjustments necessary, and payment of any additional minimum rent due Landlord shall be made within fifteen (15) days thereafter. This paragraph will also be used for the reevaluation date specified in Paragraph 1.26.

2.4 **Percentage Rental during Extended Lease Term.** In addition to the Minimum Guaranteed Rental payable during the extended Lease Term, Tenant

shall also pay to Landlord, for each calendar year during the Lease Term, Percentage Rental (as defined in Article 1) on or before April 15 of each calendar year.

2.5 Tenant's Termination Rights. If the Gross Sales (as defined below) of the Tenant from the Demised Premises do not exceed \$1,661,450 by the end of the fifth (5th) Lease Year, for such lease year, (2/1/2000 to 1/31/2001) Tenant shall have the right to terminate this Lease by delivering written notice to Landlord at any time within seventy five days (75) thereafter. Such termination shall be effective ninety (90) days after the date set forth in such notice. Upon such termination all further obligations and duties of the parties hereunder shall cease, except for obligations and indebtedness which have incurred prior to the date of termination.

ARTICLE 3 - TENANT'S WORK

3.1 Landlord's Work in Demised Premises. Intentionally deleted.

3.2 Landlord's Failure to Deliver Demised Premises. If Landlord fails to deliver Exclusive Possession of the Demised Premises to Tenant by April 15, 1995 for any reason whatsoever, Tenant shall have the right to terminate this Lease at any time within fifteen (15) days thereafter by delivering written notice of termination to Landlord. Upon such termination, both parties shall be released from all liability and obligations hereunder.

3.3 Tenant's Work in the Demised Premises. Tenant shall upon the delivery date promptly commence the Tenant's Work to be effected by the Tenant listed on Exhibits "C" and "E" attached hereto and incorporated herein for all purposes (the Tenant's Work). Tenant shall commence and complete Tenant's Work at Tenant's own expense between the delivery date and 8/3/95 or date of opening, whichever is earlier.

3.4 Tenant's Construction Allowance. Intentionally deleted.

3.5 Memorandum of Lease. Landlord and Tenant each agree that at the request of either they will execute and deliver a short form lease or memorandum of lease in recordable form acknowledging that Tenant has accepted possession and reciting the exact Commencement Date and termination date of this Lease.

ARTICLE 4 - RENTAL

4.1 Accrual of Rental. Rental shall accrue hereunder from the Commencement Date, and shall be payable to Landlord at the address specified in Section 1.2 above, or at such other address as Landlord may designate from time to time by written notice to Tenant.

4.2 Minimum Guaranteed Rental. Tenant shall pay to Landlord Minimum Guaranteed Rental in monthly installments in the amounts specified in Sections 1.14 and 2.3 above on or before the first day of each calendar month during the Lease Term.

4.3 Percentage Rental. In addition to the Minimum Guaranteed Rental payable during the Lease Term, Tenant shall also pay to Landlord, for each Lease Year during the Lease Term, Percentage Rental (as defined in Article 1) on or before April 15 after the end of each Lease Year.

4.4 Partial Years. If this Lease should commence on a date other than the first day of February or terminate on a date other than the last day of January, Percentage Rental for such fractional part of the calendar year following the Commencement Date or preceding the termination date, as the case may be, shall be paid at the percent specified in Section 1.15 and the amount specified in Section 1.16 for all Gross Sales made during such fractional part

of a calendar year after deducting from such Gross Sales an amount equal to the Percentage Rental Breakpoint multiplied by a fraction, the numerator of which shall equal the number of days in such partial calendar year in which this Lease is in effect and the denominator of which shall be the total number of days in such calendar year. The Percentage rental for any such partial calendar year shall be paid on or before April 15, 1996, or seventy five (75) days after termination of the Lease at any other time.

4.5 Gross Sales. The term "Gross Sales" as used herein shall be construed to include the entire amount of the sales price, whether for cash or evidenced by charge account, credit card, exchange or otherwise, of all sales of goods, merchandise (including gift and merchandise certificates) and services and other receipts whatsoever from all business conducted in or from the Demised Premises. Gross Sales shall not include, however, any of the following sums:

- a. Credits or refunds to customers for merchandise returned or exchanged;
- b. Transfers of merchandise from the Demised Premises to other stores or warehouses of Tenant;
- c. Any excise, transaction, value added or sales taxes or other taxes imposed under any laws, ordinances, orders or regulations, whether now or hereafter enforced, upon or based upon the gross receipts of Tenant or the sale or sales price of merchandise and which must be paid by Tenant, whether or not collected by Tenant from its customers;
- d. Returns of merchandise to shippers or manufacturers;
- e. The net amount of discounts allowed to any customer pursuant to any customary and reasonable policy adopted by Tenant;
- f. Free merchandise or other give-away items in connection with any sales promotion program of Tenant;
- g. Sales of tickets to charitable promotions, sporting events, theater, concerts or other entertainment events, ad valorem or other taxes or other fees or commissions received for Tenant's function as collection or processing agent for any third party;
- h. The charge made to any customer for alteration of any garment;
- i. The uncollected balances on "lay-away" or "will-call" sales, it being intended that only the actual amount of cash collected, and not refunded to the customer, as to lay-away or will-call sales, will be included in Gross Sales, provided that the Tenant may include the entirety of such sale in sales in the period in which the sale is made, and, in such event, if the sale is not consummated by actual delivery of the merchandise to the customer, tenant will be and become entitled to debit sales with the uncollected balance thereof and any refund made to the customer in the period when Tenant elects to cancel such sale and restore the merchandise to stock;
- j. The charges made for gift wrapping, mailing, C.O.D., special delivery and similar services provided as

accommodations to tenant's customers;

- k. Sales made to Tenant's employees and their respective families at a discount, not to exceed 3.00% of the total Gross Sales in any year;
- l. The casual sale of furniture, fixtures or equipment belonging to Tenant and theretofore used by Tenant in the operation of its business from the Demised Premises;
- m. Refunds and adjustments from suppliers;
- n. The amount of any interest, financing or late charge added to the customer's account by reason of delay in payment or pursuant to a budget or installment payment plan;
- o. Merchandise sold at a job lot (and not to retail customers);
- p. Sales in canteen or cafeteria provided as a convenience to employees only;
- q. Vending machine sales made without profit to the Tenant and solely as a convenience to the Tenant's employees and customers; and
- r. The amount of uncollected credit sales or other uncollected or bad debt, if written off as a loss by Tenant; not to exceed 3.00% of the total Gross Sales in any year.

ARTICLE 5 - RECORDS AND REPORTS

5.1 **Tenant's Records.** For the purpose of ascertaining the amount payable under this Lease as Percentage Rental, if any, Tenant shall keep in the Demised Premises or at Tenant's corporate headquarters for a period of not less than two (2) years following the end of each calendar year during the lease Term, complete books and records of the Gross Sales with respect to said calendar year and all pertinent records and accounts to show inventories and receipts of merchandise at the Demised Premises and daily receipts from all sales and other transactions by Tenant and any other persons conducting any business and or from the Demised Premises during said two-year period. Tenant's accounting records and books will be maintained on, and Percentage Rental shall be calculated on, a so-called "4-5-4" or "52-52 week" accounting method. Landlord's authorized representatives shall have the right once each Lease Year to examine at Tenant's office all such records during regular business hours with at least two (2) business days' prior notice to Tenant. Tenant agrees to provide Landlord copies of monthly sales reports from Tenant's Corporate Headquarters, at Landlord's address, if Landlord requests same.

5.2 **Tenant's Reports.** In addition, Tenant shall, on or before April 15 of each calendar year during the Lease Term and at the expiration or within seventy five (75) days after termination of this Lease, submit to Landlord an accurate statement showing the amount of gross Sales of Tenant and any other person conducting any business on or from the Demised Premises during such calendar year or a fractional part thereof. During any 5-year extension period, Tenant shall submit annual reports on or before April 15 after the end of each calendar year.

5.3 **Landlord's Audit Rights.** In connection with any statements or reports submitted by Tenant to Landlord under the provisions of Section 5.2, 5.5

hereof, Landlord shall have the right, at any time and from time to time, but not more often than once per calendar year and subject to Section 5.1, to have a certified public accountant or other duly authorized representative examine and audit any such statement or report so submitted by tenant and all other books and records of tenant which said accountant or representative shall deem material to a proper determination of Percentage Rental reserved herein. If, as a result of such examination, the Gross Sales shown on any statements submitted by Tenant are found to be incorrect, Tenant shall promptly pay to Landlord any deficiency or Landlord shall promptly refund to tenant any overpayment, as the case may be, which is established by such examination, and, if any such statement reflects that the Gross Sales shown thereon were understated by more than three percent (3%), Tenant shall pay for the reasonable cost of such examination and audit, upon demand.

5.4 Landlord's Records. For the purpose of ascertaining and confirming the amounts payable under this Lease as Tenant's one half of the increase of Taxes, Insurance Premiums, if any, and any other sums which Landlord is entitled to charge the Tenant hereunder, Landlord shall keep at Landlord's manager's office at the Shopping Center or at Landlord's principal office for a period of not less than two (2) years following the end of each calendar year during the Lease Term, complete books and records of the Taxes, Insurance Premiums, and any other sums charged to Tenant, and Tenant's one half of the increase thereof, with respect to said calendar year, and all pertinent bills, receipts, statements, and other information to evidence and support such amounts, and Tenant's one half of the increase thereof, for said two-year period.

5.5 Landlord's Statements, Reports, etc. In connection with any request for Tenant's one half of the increase of Taxes, Insurance Premiums, or any other sums which Landlord is entitled to charge the tenant for hereunder, Landlord shall submit to tenant an accurate and detailed statement showing the total amount of such sums incurred by the Landlord and Tenant's one half of the increase thereof, calculated in accordance with the terms of this Lease. Upon the request of Tenant, Landlord shall deliver to Tenant copies of all bills, invoices, statements and other supporting documentation evidencing and supporting such charges.

5.6 Tenant's Audit Rights. In connection with any bills, invoices, statements or other demands submitted by Landlord to Tenant under any of the provisions of this Lease, including, without limitation, any requests under Sections 17.2 and 17.3 hereunder, Tenant shall have the right, at any time and from time to time, but not more often than once per calendar year, to have a certified public accountant or other duly authorized representative examine and audit any such bills, invoices, statements or other demands so submitted by Landlord and all books, records, invoices, bills, statements or other material of Tenant which said accountant or representative shall deem material to a proper determination of Tenant's one half of the increase of Taxes, Insurance Premiums, or any other charges made by Landlord of Tenant hereunder. If, as a result of such examination, the amounts shown on any invoices, bills, statements or demands submitted by Landlord are found to be incorrect. Tenant shall promptly pay to Landlord any deficiency or Landlord shall promptly refund to Tenant any overpayment, as the case may be, which is established by such examination, and, if any such statement reflects that the amounts requested to be paid by Tenant shown thereon were overstated by more than three percent (3%), Landlord shall pay for the reasonable cost of such examination and audit, upon demand.

ARTICLE 6 - COMMON AREA

6.1 Use and Regulation of Common Area. The term "Common Area" is defined for all purposes of this Lease as that part of the Shopping Center intended for the common use of all tenants, including among other facilities (as such may be applicable to the Shopping Center) parking areas, private streets and alleys, landscaping, curbs, loading areas, sidewalks, malls and promenades

(enclosed or otherwise), lighting facilities, drinking fountains, meeting rooms, public toilets, Shopping Center signs, service areas, common utility lines, pipes and conduits and the like, but excluding (i) space in buildings (now or hereafter existing) designed for rental for commercial purposes, as the same may exist from time to time, (ii) Landlord's management office, utility rooms, storage spaces and out parcels located in the Shopping Center or on the Shopping Center property, (iii) the roof of the Shopping Center, and (iv) further excluding streets and alleys maintained by a public authority. Tenant, and its employees, and customers, and when duly authorized pursuant to the provisions of this Lease its subtenants, licensees and concessionaires, shall have the non-exclusive right to use the Common Area as constituted from time to time, such use to be in common with Landlord, other tenants of the Shopping Center and other persons permitted by Landlord to use the same. Tenant shall not solicit business or display or offer for sale merchandise within the Common Area or at any other point outside the Demised Premises or distribute handbills in the Common Area or take any action which would interfere with the rights of other persons to use the Common Area. Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to make repairs or alterations or to prevent the public from obtaining prescriptive rights.

6.2 Restrictions on Landlord's Alterations or Additions to Common Area. Notwithstanding anything contained to the contrary in this Lease, the Landlord shall not undertake or allow the following actions or changes to be made to that portion of the Common Area marked on Exhibit "B" attached hereto and incorporated herein for all purposes (the "Restricted Area") without the prior express written consent of the Tenant:

- a. The alteration of the location or dimensions of the Restricted Area, the Shopping Center or any buildings or improvements located thereon, and the parking spaces located therein;
- b. The reduction of the parking ratio of the Shopping Center below 5.0 parking spaces for each 1,000 square feet of floor area located within the Shopping Center or the reduction of the number of parking spaces located within the Restricted Area;
- c. Add, delete, move or change existing landscaping, planters or structures located within the Restricted Area that may affect the visibility of the Demised Premises from any road, street or highway;
- d. Add any additional stories over all or any portion of the Demised Premises or construct additional buildings or additional improvements (including any parking garages, kiosks, pad buildings, signs, etc.) in the Restricted Area; or
- e. Sell, lease or otherwise grant an exclusive or semi-exclusive license for the use of any portion of the Restricted Area to any tenant or third party.

Landlord further agrees that the Landlord shall not use the Restricted Area for fairs, carnivals, swap meets, exhibitions, shows, sales, promotions, spectacles, circuses or other events, without the express prior written consent of the Tenant.

6.3 Maintenance of Common Area. Landlord shall be responsible for the good and safe operation, management, and maintenance of the Common Area, and Landlord shall operate, manage and maintain the Common Area in good, attractive and safe condition during the Lease Term.

6.4 Common Area Costs. Intentionally deleted.

ARTICLE 7 - USE

7.1 Use of Demise Premises. The Demised Premises may be used only for the purpose or purposes specified in Section 1.17 above, and for no other purposes without the prior written consent of Landlord. Tenant shall use in the transaction of business in the Demised Premises the trade names specified in Section 1.5 above and no other trade name without the prior written consent of Landlord. All property kept, stored or maintained within the Demised Premises by Tenant shall be at Tenant's sole risk.

7.2 Operation of Business. Tenant shall not permit any objectionable or unpleasant odors to emanate from the Demised Premises; nor place or permit any radio, television, loudspeaker or amplifier on the roof or outside the Demised Premises or where the same can be seen or heard from outside the building in which the Demised Premises are located; nor take any other action which would constitute a nuisance or would disturb or endanger other tenants of the Shopping Center or unreasonably interfere with their use of their respective premises.

7.3 Disposal of Trash. Tenant shall take good care of the Demised Premises and keep the same free from waste at all times. Tenant shall keep the Demised Premises neat, clean and free from dirt or rubbish at all times, and shall store all trash and garbage within the Demised Premises, arranging for the regular pick-up of such trash and garbage at Tenant's expense. Tenant shall not operate an incinerator or burn trash or garbage within the Shopping Center area.

7.4 Compliance with Laws. Tenant shall procure, at its sole cost, expense, and liability, any permits and licenses required for the transaction of Tenant's business in the Demised Premises and otherwise comply with all applicable laws, codes, ordinances and governmental rules and regulations to the Demised Premises by Tenant, and the business conducted on the Demised Premises by Tenant. At all times during the Lease Term, Landlord covenants and agrees that, at Landlord's sole cost, expense and liability, Landlord shall comply with all laws, codes, ordinances and governmental rules and regulations relating to the Shopping Center and the Demised Premises (to the extent not required or necessitated because of Tenant's specific business being conducted thereon or because of any alterations, additions or improvements made by Tenant or relating to the Shopping Center, regardless of when they become effective, including, without limitation, all applicable federal, state and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Material (as defined in Article 22), waste disposal, and other environmental matters, all zoning and other land use matters, utility availability, and with any direction of any public officer or officers pursuant to law, which shall impose any duty upon the Landlord with respect to the Shopping Center.

7.5 Prohibited Uses in Shopping Center. As a material consideration for Tenant to enter into this Lease for the Demised Premises, Landlord agrees that neither Landlord nor any person or entity controlled by Landlord shall use, lease or permit the use, leasing or subleasing of, or sell any space in or any portion of the Shopping Center for any of the following uses, without the express written consent of Tenant:

- a. a pornographic bookstore, cinema, video store, massage parlor, modeling studio or similar business which would tend to injure the family oriented reputation of the Shopping Center;
- b. an establishment whose business is primarily that of a

- tanning salon;
- c. topless/bottomless nightclub or restaurant or similar venue for adult entertainment;
 - d. auction, going out of business, fire or bankruptcy sales or similar merchandise liquidators;
 - e. army-navy surplus store, second-hand store, or salvage or "odd-lot" store;
 - f. Roller skating rink;
 - g. An establishment whose primary business is a video arcade, pool or gaming hall;
 - h. Nightclub, bar or dance hall;
 - i. Flea market, swap meet or similar enterprise;
 - j. Manufacturing or processing plant;
 - k. Pawn shop;
 - l. An establishment whose business is primarily a third-party check cashing service;
 - m. Bowling alley;
 - n. Cinema or theater (excluding any existing cinema or theater);
 - o. Sports, health or fitness club;
 - p. An establishment whose primary business is auto parts sales (including tires, batteries and accessories); a gas station or auto repair shop;
 - q. Bingo parlor, Offtrack betting parlor; and
 - r. Any use that is obnoxious to a family oriented, first class shopping center, including, without limitation, any use of any medium that might constitute a nuisance such as loud speakers, sound amplifiers, phonographs, radios, televisions or any other sound producing device which will carry sound outside of the respective premises of the Shopping Center.

Notwithstanding the foregoing, Landlord shall not be in default hereunder if any other tenant conducts any of the foregoing businesses (except those listed under subparagraphs a, b, and c) under any existing lease covering space in the Shopping Center, which lease expressly permits such use without the consent of Landlord.

ARTICLE 8 - MAINTENANCE AND REPAIRS

8.1 Landlord's Obligations. Landlord, at Landlord's sole cost and expense, shall keep the foundation, the structural members and portions of the Demised Premises, the exterior walls (except plate glass; windows, doors, door closure devices and other exterior openings; window and door frames, molding, locks and hardware; special store fronts; lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installations,

equipment and fixtures; signs, placards, decorations or advertising media of any type; damage caused by break-ins or attempted break-ins to the Demised Premises; and interior painting), the roof (excluding, however, damage to flashing around rooftop air conditioning units caused by the activities of Tenant or Tenant's contractors) of the Demised Premises and any and all utility service lines exterior to the Demised Premises and those (wherever located) that service more than the Demised Premises in good repair and working order. Landlord shall additionally be responsible for any damages to plate glass, windows, doors, door and window frames, exterior openings, store fronts, signs, systems, etc. caused by a failure of or latent defect in the foundation, soil, roof, exterior walls or structural portions of the Demised Premises. Landlord, however, shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, contractors, employees, subtenants, licensees, concessionaires and invitees; and the provisions of the previous sentence are expressly recognized to be subject to the provisions of Article 14 and Article 15 of this Lease.

In the event that the Demised Premises should become in need of repairs required to be made by the Landlord hereunder, Tenant shall give immediate written notice thereof to Landlord. In the case where life, security or health of individuals is threatened or where the loss of property (including the Tenant's inventory, trade fixtures and equipment) is threatened or imminent, the Tenant may inform the Landlord and/or Landlord's agent, orally or in writing, and Landlord shall immediately commence such repairs and proceed to complete the same with due diligence. In all other cases where repairs are required hereunder, the Landlord shall commence such repairs as soon as reasonably practicable and complete the same within a reasonable period of time thereafter exercising due diligence.

Landlord represents and warrants that the roof is in good condition and is without leaks. In addition to Landlord's obligations hereunder, Landlord shall maintain the roof prior to the Commencement Date in good repair and free from leaks. If Landlord fails to cure any default hereunder after notice and opportunity to cure as provided in this Section 8.1, Landlord shall be responsible for all claims, liabilities, damages, costs, and expenses suffered or incurred by Tenant and its contractors, subcontractors, agents, and employees, directly or indirectly, because of or in connection with any such failure or leakage of the roof prior to or during the term of this Lease.

In addition to the foregoing, Landlord agrees to monitor, repair and maintain the existing fire sprinkler system servicing the Demised Premises, which are located outside of the Demised Premises. Likewise Tenant agrees to monitor, repair and maintain the fire sprinkler lines located inside the Demised Premises. Tenant shall pay to Landlord monthly, along with its payment of Minimum Guaranteed Rental, a sum of Thirty (\$30.00) Dollars per month as a Fire Protection Utility fee.

8.2 Tenant's Obligations. Tenant shall keep the Demised Premises in good, clean and habitable condition and shall at its sole cost and expense keep the Demised Premises free of insects, rodents, vermin and other pests and make all needed repairs and replacements, including replacement of cracked or broken glass except for repairs and replacements required to be made by Landlord under the provisions of Section 7.4, Section 8.1, Article 14 and Article 15. Without limiting the coverage of the previous sentence, it is understood that Tenant's responsibilities shall include the repair and replacement of all lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installation, equipment and fixtures; all utility repairs in ducts, conduits, pipes and wiring in the Demised Premises; any sewer stoppage located in, under and above the Demised Premises; and all damage caused by break-ins or attempted break-ins to the Demised Premises. Tenant, however, shall not be required to make any repairs occasioned by the act or negligence of Landlord, its agents, contractors, employees, licensees, concessionaires and invitees. In the event that the Demised Premises should become in need of repairs required to

be made by the Tenant hereunder, Landlord shall give immediate written notice thereof to the Tenant. The Tenant shall commence such repairs within fourteen (14) days from the Tenant's receipt of notice and will complete the same within a reasonable period of time thereafter exercising due diligence. Any failure of the Tenant to make timely any repairs required to be made by the Tenant hereunder shall deem to be an immediate event of default by tenant which may not be cured under Section 19.1 hereof.

ARTICLE 9 - ALTERATIONS

9.1 Required Approval and Renewals. Except as otherwise provided herein, Tenant shall not make any alterations, additions or improvements to the Demised Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary contained in this Lease, the Tenant shall have the right to make any alterations, improvements, modifications or replacements to the interior of the Demised Premises without the consent of the Landlord if and only if (i) the total cost of such alterations, improvements, modifications or replacements do not exceed Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) for any Lease Year, and (ii) Tenant shall not remove, alter or otherwise impair any structural element of the Demised Premises. Tenant may remove Tenant's trade fixtures, supplies, furniture and equipment not permanently attached to the Demised Premises provided that such removal is made prior to twenty (20) days after the expiration of the Lease Term and Tenant promptly repairs all damage to and restores all surfaces of the Demised Premises caused by such removal. All other property at the Demised Premises which is permanently attached or affixed to the floor, wall or roof of the Demised Premises shall remain upon and be surrendered with the Demised Premises upon the expiration or termination of the Lease Term.

9.2 Construction by Landlord. If in the future Landlord is required to perform any construction, Landlord agrees that in making any required or permitted alterations, additions, repairs or maintenance to the Demised Premises or in exercising any right or complying with any duty under this Lease, Landlord shall not alter or modify the then existing ceilings, walls, floors, furr-down finishes in the Demised Premises or install any pipe, conduit, duct, wire or column that is not entirely contained in and covered by the then existing walls, floors, ceilings or furr-down finishes within the Demised Premises.

9.3 Liens. Tenant shall neither permit nor suffer any involuntary lien to be filed or affixed against the Demised Premises or the Shopping Center, or any part thereof, and shall not voluntarily grant any lien or security interest therein or in tenant's leasehold interest created by this Lease. In the event any such involuntary or voluntary lien, including, without limitation, any mechanic's lien, materialman's lien or tax lien, is filed and Tenant has not caused the same to be released and discharged of record within ninety (90) days after notice thereof, same shall constitute a default hereunder. Tenant shall be liable for all costs, charges, expenses and reasonable attorney fees incurred by Landlord in connection with such liens.

ARTICLE 10 - ACCESS

10.1 Entry by Landlord. Landlord shall have the right to enter upon the Demised Premises during Tenant's regular business hours for the purpose of inspecting the same, or of making repairs to the Demised Premises, or of making repairs, alterations or additions to adjacent premises, or of showing the Demised Premises to prospective purchasers, lessees or lenders. In no event, however, shall Landlord in any way interfere with or obstruct the normal business operations of the Tenant for so long as Tenant is operating in the Demised Premises.

10.2 Placement of Signs. Tenant will permit Landlord to place and maintain "For Rent" or "For Lease" signs on the Demised Premises during the last

ninety (90) days of the Lease Term, at a location acceptable to Tenant, it being understood that such signs shall in no way affect Tenant's obligations under any provision of this Lease.

ARTICLE 11 - EXTERIOR CHANGES AND SIGNS

11.1 Exterior Changes. Tenant shall not, without Landlord's prior written consent, which consent shall not be unreasonably withheld or delayed, (a) make any changes to the store front or (b) install any exterior lighting, decorations, paintings, awnings, canopies or the like or (c) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Demised Premises, excepting only displays in its display windows and such signs, door lettering, placards, decorations or advertising media that are being customarily and normally used in connection with Tenant's stores. All signs shall be kept in good condition and in proper operating order at all times. Tenant shall immediately remove any signs, window or door lettering, placards, decorations or advertising media of any type which is not in conformity with the above.

11.2 Fascia Sign. Tenant shall have the right to erect and maintain, at Tenant's sole cost and expense, an illuminated sign on the front of the Demised Premises bearing Tenant's standard design name/logo. The size, location, materials and colors of such sign shall be in accordance with Tenant's standard design criteria used for a majority of Tenant's other Stage stores.

11.3 Pylon Sign. If Landlord currently maintains a pylon sign for tenants fronting Route 18 West (Main Street), Tenant shall have the right at Tenant's sole cost and expense to install, operate, maintain & repair a sign advertising the Tenant's name on such pylon sign. The size, color, design and location on the pylon sign shall be mutually agreed upon by Landlord and Tenant, exercising reasonableness in their deliberations and agreement.

11.4 Temporary Signage. Prior to the installation of Tenant's signs on the front of the Demised Premises and on the pylon sign, Tenant may erect and maintain and remove on the exterior of the Demised Premises, at Tenant's sole cost and expense, a professionally prepared banner sign advertising the pending opening of Tenant's business.

11.5 Tenant's Identification in Shopping Center. Tenant's trade name shall be listed on all Shopping Center and/or mall directories. On any maps or diagrams where the name of any other store located within the Shopping Center is shown, Tenant's trade name and location must be shown. On any billboards advertising the Shopping Center controlled by Landlord, in which any other store located within the Shopping Center is listed by name, Tenant's trade name must likewise be listed. On any directional signs at the Shopping Center (both interior and exterior) upon which any store located within the Shopping Center is listed with directions indicated, Tenant shall likewise be listed by trade name with the direction indicated.

ARTICLE 12 - UTILITIES

12.1 Facilities. Landlord agrees to cause to be provided and maintained the necessary mains, conduits and other facilities necessary to supply water, gas, electricity, telephone service, sewage service to the Demised Premises.

12.2 Payment for Services. Tenant shall promptly pay, prior to delinquency, all charges for electricity, water, gas, telephone service, sewage service and other utilities furnished to the Demised Premises.

12.3 Interruption in Service. In the event that any of the utility services are interrupted to the Demised Premises because of any act or omission

by the Landlord or Landlord's agents, employees, licensees, invitees or contractors and such utility service(s) is not restored within a 24-hour period, the Tenant shall be entitled to an abatement of Rent for each Tenant's business day or portion of the business hours of a business day thereafter during which such utility service(s) is not reinstated.

12.4 HVAC Service. Notwithstanding anything to the contrary contained in this Lease, the Landlord hereby agrees to maintain in good operating condition the heating, ventilation and air conditioning system (including, without limitation the air conditioning compressors) servicing the Demised Premises for the Lease Term. Landlord shall perform all maintenance, repairs, cleanings and replacements necessary to maintain the HVAC system in good working order. If at any time the HVAC system servicing the Demised Premises needs maintenance, repair, cleaning or replacement, Tenant shall deliver to Landlord a list of items needing repair, cleaning, maintenance or replacement and Landlord agrees to initiate such repairs, cleaning, maintenance and/or replacements within two (2) days after receipt of such written notice. If Landlord fails to complete its obligations hereunder within thirty (30) days after Tenant's written notice, Tenant may undertake to perform such repair, cleaning, maintenance or replacement and charge the Landlord for Tenant's actual cost and expense incurred in connection therewith. Notwithstanding anything to the contrary contained in this Lease, Tenant may elect to recapture such amounts expended by deducting the same from the Rental payable to Landlord hereunder.

As consideration for Landlord's promises to maintain, repair, clean and replace the HVAC system as aforesaid, Tenant shall pay to Landlord as Additional Rental, simultaneously with the payment of Minimum Guaranteed Rental, a monthly fee of \$41.66.

Landlord shall deliver to the Tenant simultaneously with the delivery of the Demised Premises, and maintain during the entire Lease Term, a fully equipped and functioning HVAC system servicing the Demised Premises that is sufficient to maintain 68 degrees Fahrenheit in the winter, and 73 degrees Fahrenheit in the summer.

ARTICLE 13 - INSURANCE AND INDEMNITY

13.1 Indemnities. Tenant hereby agrees to indemnify Landlord and Landlord's principals, shareholders, directors, affiliates, officers, employees, agents, contractors and attorneys (collectively, the "Landlord Parties") and hold the Landlord Parties harmless from any loss, liability, expense or claims arising out of such damage or injury or on account of any negligent or willful action or omission by Tenant, Tenant's invitees, agents, contractors, employees, subtenants, assignees, licensees or concessionaires; and, without limiting the generality of the foregoing, Tenant further covenants and agrees to indemnify and hold the Landlord Parties harmless from and against any penalty, damage or charge incurred or imposed by reason of any violation of law or ordinance by Tenant. In the event of any action or claim against which any of the Landlord Parties are entitled to indemnification hereunder, Tenant shall immediately notify Landlord of the same and shall furnish Landlord with all relevant information concerning such action or claim, and Landlord shall be entitled, at Tenant's expense, to participate in, and to the extent that Landlord wishes, to assume the defense thereof.

Landlord hereby agrees to indemnify Tenant and Tenant's shareholders, directors, affiliates, officers, employees, agents, contractors and attorneys (collectively, the "Tenant Parties") and hold the Tenant Parties harmless from any loss, liability, expense or claims arising out of such damage or injury or on account of any negligent or willful action or omission by Landlord, Landlord's invitees, agents, contractors, employees, subtenants, assignees, licensees or concessionaires; and, without limiting the generality of the foregoing, Landlord further covenants and agrees to indemnify and hold the Tenant Parties harmless

from and against any penalty, damage or charge incurred or imposed by reason of any violation of law or ordinance by Landlord. In the event of any action or claim against which any of the Tenant Parties are entitled to indemnification hereunder, Landlord shall immediately notify Tenant of the same and shall furnish Tenant with all relevant information concerning such action or claim, and Tenant shall be entitled, at Landlord's expense, to participate in, and to the extent that Tenant wishes, to assume the defense thereof.

It is understood and agreed that in the event that both Landlord and Tenant are negligent, each party shall indemnify and hold the other party harmless to the extent of such party's negligence, as may be determined by any final non-appealable judgment entered by a court of competent jurisdiction.

13.2 Tenant's Liability Insurance. Tenant shall procure and maintain throughout the Lease term a policy or policies of insurance, at its sole cost and expense, insuring both Landlord and Tenant against all claims, demands or actions arising out of or in connection with Tenant's use or occupancy of the Demised Premises, or by the condition of the Demised Premises, the limits of such policy or policies to be in an amount not less than \$2,000,000.00 combined single limit and shall be written by insurance companies reasonably satisfactory to Landlord. Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least thirty (30) days prior to cancellation of or any material change in such policies. Such policies or duly executed certificates of insurance shall be promptly delivered to Landlord and renewals thereof as required shall be delivered to Landlord at least thirty (30) days prior to the expiration of the respective policy terms.

13.3 Landlord's Liability Insurance. Landlord shall procure and maintain throughout the Lease Term a policy or policies of insurance, at its sole cost and expense, insuring Landlord and tenant against all claims, demands, or actions arising out of or in connection with the Shopping Center and the Common Area, or by condition of the Shopping Center, the limits of such policy or policies to be in an amount not less than Two Million and No/100 Dollars (\$2,000,000.00) combined single limit and shall be written by insurance companies reasonably satisfactory to Tenant. Landlord shall promptly deliver to Tenant evidence of such insurance upon request by Tenant from time to time.

13.4 Landlord's All Risk Insurance. Landlord agrees to take out and maintain at all times during the Lease Term a policy of all risk coverage insurance on the Shopping Center improvements. Such policy shall contain a replacement cost (90% co-insurance) endorsement. Tenant agrees that Landlord shall, annually obtain an appraisal of the replacement cost of the Demised Premises by Industrial Appraisal Co., or a similar reputable appraising company, and all risk replacement cost insurance coverage shall be maintained on the Demised Premises, at all times, at the annual current replacement cost. Any policy proceeds shall be used for the repair or replacement of the property damaged or destroyed unless this Lease is terminated under the other provisions hereof.

13.5 Waiver of Subrogation. Landlord and Tenant hereby release each other and their respective agents, employees, partners, shareholders, officers and directors from any claims or actions for damage to any person or to the Demised Premises or the Shopping Center that are caused by or result from risks insured under any insurance policies maintained or required to be maintained by the parties hereto under the terms of this Lease or in force at the time of any such damage. Landlord and Tenant each covenant and agree that no insurer shall hold any right of subrogation against the other with respect to any such damage or loss. Each party shall cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by way of subrogation against the other party in connection with any damage covered by any such policy.

ARTICLE 14 - DAMAGE BY FIRE AND OTHER CAUSES

14.6 **Tenant's Right to Extend Lease Term.** In the event that any fire or other casualty occurs during the last three (3) Lease Years during the Lease Term which gives the Landlord the right to terminate this Lease, tenant may then have sixty (60) days after notice of Landlord's intentions in which to exercise its option to extend the Lease Term in accordance with Article 2 hereof.

14.7 Both parties may give a written notice of non-termination within the sixty (60) day period.

ARTICLE 15 - EMINENT DOMAIN

15.1 **Taking of Demised Premises.** If any portion of the floor area of the Demised Premises or the Shopping Center should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof, this Lease shall, unless Landlord and Tenant agree otherwise in writing, terminate and the Rent shall be abated during the unexpired portion of the Lease Term, effective on the date physical possession is taken by the condemning authority.

15.2 **Taking of Common Area.** If twenty-five percent (25%) or more of the Common Area should be taken as aforesaid, or if 25% or more of the Restricted Area should be taken, this Lease shall terminate unless Landlord and Tenant agree otherwise. If this Lease is not or cannot be terminated by Landlord or Tenant hereunder following such partial taking, Landlord shall make all necessary repairs or alterations to the remaining portions of the Common Area required to make the remaining portions of the Common area an architectural whole within one hundred twenty (120) days from the date on which physical possession is taken by the condemning authority.

15.3 **Award.** All compensation awarded for any taking (or the proceeds of private sale in lieu thereof) of the Demised Premises or Common Area shall be the property of Landlord, and tenant hereby assigns its interest in any such award to Landlord; provided however, Landlord shall have no interest in any award made to Tenant for tenant's moving and relocation expenses or for the loss of tenant's fixtures, leasehold improvements and other tangible personal property installed by Tenant.

ARTICLE 16 - ASSIGNMENT AND SUBLETTING

16.1 **Prohibition.** Except as permitted in this Article 16, Tenant shall not assign or in any manner transfer this Lease or any estate or interest therein, or sublet the Demised Premises or any part thereof, or grant any license, concession or other right of occupancy of any portion of the Demised Premises or mortgage, pledge or otherwise encumber its interest in this Lease or in the Demised Premises, without the prior written consent of Landlord which shall not be unreasonably withheld or delayed, and any attempt to do any of the foregoing without the prior express written consent of Landlord shall be void and of no effect. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any proposed subsequent assignments and sublettings.

16.2 **Transfers by Operation of Law.** If Tenant is a corporation and if at any time during the primary term of this Lease or any renewal or extension thereof, the person or persons who own a majority of either the outstanding voting shares or all outstanding shares of capital stock of Tenant at the time of the execution of this Lease cease to own a majority of such shares (except as the result of transfers by devise or descent), the loss of a majority of such shares shall be deemed an assignment of this Lease by Tenant and therefore subject in all respects to the provisions of Section 16.1 above. The previous sentence shall not apply, however, if at the time of the execution of this Lease the outstanding voting shares of capital stock of Tenant are listed on a recognized security exchange or over-the-counter market. Notwithstanding

in Section 17.1 Landlord shall pay or cause to be paid all general real estate taxes and special assessments and governmental charges (hereinafter collectively referred to as "Taxes") levied or assessed against the Shopping Center for each real estate tax year. Tenant shall pay to Landlord in monthly installments, on the same dates as and in addition to the monthly installment of Minimum Guaranteed Rental and Additional Charges, an amount equal to one-twelfth (1/12th) of Tenant's one half of the increase over the base set forth in Section 1.24. Tenant agrees that the term "Taxes", for purposes of calculating Tenant's one half of the increase of Taxes, shall also include any reasonable fees paid by Landlord to a tax consultant hired by Landlord to obtain a reduction of the Taxes. As soon as practicable after the close of each calendar year, but in no event later than sixty (60) days after the year end, during the Lease Term, Landlord shall furnish a statement in writing to Tenant specifying the actual amount due by Tenant in respect of Tenant's one half of the increase of Taxes. In the event the total of the monthly payments theretofore made by Tenant under this Section 17.2 for such year exceeds the actual amount due, then the excess shall, at Tenant's election, either be (i) applied as a credit against any sums thereafter becoming due by Tenant to the Landlord under the Lease, including, without limitation, any Minimum Guaranteed Rental or (ii) refunded to the Tenant within thirty (30) days after written demand by Tenant to Landlord. In the event the total of the monthly payments theretofore made by Tenant under this Section 17.2 for such year is less than the actual amount due, any such deficiency shall be due and payable by Tenant to Landlord within thirty (30) days after Tenant's receipt of such statement. If the Demised Premises shall be separately assessed, then Tenant's one half of the increase of the Taxes shall be the amount of such separate assessment. During any year which shall be less than a full tax year, Tenant's one half of the increase of the Taxes shall be prorated on a daily basis between the parties to the end that Tenant shall only pay for taxes attributable to the portion of the tax year occurring within the Lease Term. Landlord further agrees that in the event that Tenant requests that Landlord protest the valuation of the Shopping Center for ad valorem tax purposes, or otherwise seek to reduce the amount of Taxes assessed against the Shopping Center, and Landlord fails to agree to do so in writing within thirty (30) days from such request, Tenant is authorized, at its sole cost and expense, to proceed to protest such valuation or Taxes on behalf of the Landlord. Landlord agrees to cooperate with Tenant in Tenant's efforts, so long as Landlord is not obligated to expend any funds in connection with such protest, and Landlord will sign all documents, instruments, requests, petitions, etc. that may be reasonably required in connection therewith. If Tenant is successful in obtaining a reduction in the Taxes, Landlord shall reimburse Tenant (to the extent and only to the extent that any ad valorem tax savings are achieved) Landlord's share of all of Tenant's costs and expenses in connection therewith, including, without limitation, reasonable attorneys' fees and tax consultants' fees. Landlord's share of such costs and expenses shall equal (i) the total number of square feet contained in all buildings located in the Shopping Center property less the G.L.A. of the Demised Premises divided by (ii) the total number of square feet contained in all buildings located on the Shopping Center property.

17.3 Insurance Premiums. For purposes of this Lease, the term "Insurance Premiums" shall mean and include the total annual insurance premiums and other charges for fire and extended coverage insurance policies maintained by Landlord, from time to time, for or with respect to the Shopping Center and the buildings thereon. Tenant shall pay to Landlord in monthly installments, on the same dates as and in addition to the Minimum Guaranteed Rental, an amount equal to one-twelfth (1/12th) of Tenant's one half of the increase over the base as set forth in Section 1.23. As soon as practicable after the close of each calendar year, but in no event later than sixty (60) days after the year end, during the term hereof, Landlord shall furnish a statement in writing to Tenant specifying the actual amount due by Tenant in respect of Tenant's one half of the increase of Insurance Premiums. In the event the total of the monthly payments theretofore made by Tenant under this Section 17.3 for such year exceeds the actual amount due, then the excess shall, at Tenant's election, either be (i)

applied as a credit against any sums thereafter becoming due by Tenant to the Landlord under the Lease, including, without limitation, any Minimum Guaranteed Rental or (ii) refunded to the Tenant within thirty (30) days after written demand by Tenant to Landlord. In the event the total of the monthly payments theretofore made by Tenant under this Section 17.3 for such year is less than the actual amount due, any such deficiency shall be due and payable by Tenant to Landlord within thirty (30) days after Tenant's receipt of such statement. For purposes hereof, premiums paid for insurance policies having policy years which do not coincide with calendar years shall be prorated on a per diem basis for each calendar year affected, and total premiums for policies issued for more than one year will be prorated equally over the number of years of the term of such policies, regardless of differences in premium amounts actually paid during any particular year or years of such term. During any part of the Lease Term which shall be less than a full policy year, Tenant's one half of the increase of Insurance Premiums shall be prorated on a daily basis between the parties to the end that Tenant shall only pay for Insurance Premiums attributable to the portion of the policy year occurring within the Lease Term.

**ARTICLE 18 - LIMITATION OF TENANT'S PRO RATA SHARE OF
COMMON AREA COSTS, TAXES AND INSURANCE PREMIUMS**

18.1 Intentionally deleted.

ARTICLE 19 - DEFAULT

19.1 Events of Default. Each of the following events shall be deemed to be an Event of Default by Tenant under this Lease:

- 19.1.1 Tenant shall fail to pay any installment of Rent or any other obligation hereunder involving the payment of money when due hereunder and shall not cure such failure within ten (10) days after written notice thereof to Tenant; provided that Landlord shall not be required to give Tenant more than two (2) such notices in any Lease Year;
- 19.1.2 Tenant shall fail to comply with any term, provision or covenant of this Lease, other than as described in subsection 19.1.1 above, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant; provided that if such failure cannot be reasonably cured within such 30-day period, Tenant shall not be in default if Tenant commences such cure within the 30-day period and completes the same with due diligence;
- 19.1.3 Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors;
- 19.1.4 Tenant shall file a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof; or Tenant shall be adjudged bankrupt or insolvent in proceedings filed against Tenant; and
- 19.1.5 A receiver or Trustee shall be appointed for the Demised Premises or for all or substantially all of the assets of Tenant.

19.2 Remedies. Upon the occurrence of any Event of Default, Landlord shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

19.2.1 Terminate this Lease, in which event Tenant shall immediately surrender possession of the Demised Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which Landlord may have for possession or arrearages in Rent, enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying the Demised Premises or any part thereof, by force if necessary, without being liable for prosecution of any claim for damages therefor; and/or

19.2.2 Enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying the Demised Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor, with or without having terminated the Lease.

19.3 Landlord's Right to Cure Defaults. If Tenant should fail to make any payment or cure any default hereunder within the time herein permitted, Landlord, without being under any obligation to do so and without thereby waiving such default, may make such payment and/or remedy such other default for the account of Tenant (and enter the Demised Premises for such purpose), and thereupon Tenant shall be obligated, and hereby agrees, to pay Landlord, upon demand, all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Landlord in taking such remedial actions.

19.4 Termination by Landlord. In the event Landlord elects to terminate this Lease by reason of an Event of Default, then notwithstanding such termination, Tenant shall be liable for and shall pay to Landlord the sum of all Rent and other indebtedness accrued to the date of such termination plus, as damages, an amount equal to the aggregate amount of the Rent and all other sums reserved hereunder for the remaining unexpired portion of the Lease Term (had this Lease not been so terminated by Landlord) less the then fair rental value of the Demised Premises for such period.

19.5 Termination of Tenant's Right to Possession. In the event Landlord elects to repossess the Demised Premises without terminating the Lease, then Tenant shall be liable for and shall pay to Landlord all Rent and other indebtedness accrued to the date of such repossession, plus all Rent and other sums required to be paid by Tenant to Landlord during the remainder of the Lease Term, diminished by any net sums thereafter received by Landlord through reletting the Demised Premises during said period. In no event shall Tenant be entitled to any excess rental obtained by reletting over and above the Rent herein reserved. Actions to collect amounts due by Tenant as provided in this Section 19.5 may be brought from time to time, on one or more occasions, without the necessity of Landlord's waiting until the expiration of the Lease Term. Tenant shall be liable for all costs, expenses and reasonable attorney fees incurred by Landlord in repossessing and reletting the Demised Premises.

19.6 Injunctive Relief. In the event of the breach or the attempted or threatened breach of any covenant or provision contained in this Lease by Tenant, Landlord shall have, in addition to all other remedies provided to it hereunder or by law or equity, the right to obtain an injunction prohibiting such breach or attempted breach without the necessity of proving the inadequacy of

legal remedy, irreparable harm or probable right of recovery.

19.7 Default by Landlord. If Landlord is in default hereunder, and fails to cure the same timely, in addition to any and all other rights, remedies and recourses available to Tenant, Tenant may, after giving Landlord an additional five (5) days notice, undertake to cure such default on behalf of Landlord, and thereupon Landlord agrees to pay Tenant, upon demand, all costs, expenses and disbursements (including reasonable attorneys' fees) incurred by Tenant in taking such remedial actions or, in the alternative, Tenant may withhold from the payment of Rent such sums.

ARTICLE 20 - HOLDING OVER

20.1 In the event Tenant remains in possession of the Demised Premises after the expiration of this Lease and without the execution of a new lease, it shall be deemed to be occupying the Demised Premises as a tenant at will at a rental equal to the Rent herein provided plus twenty-five percent (25%) of such amount and otherwise subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a tenancy at will.

ARTICLE 21 - NOTICES

21.1 Wherever any notice is required or permitted hereunder such notice shall be in writing. Any notice required or permitted to be delivered hereunder shall be delivered by hand or overnight express service or sent by United States Registered or Certified Mail, adequate postage prepaid and, for purposes of the calculation of the various time periods referred to herein, shall be deemed received when delivered to the place for giving notice to a party referred to herein in the case of delivery by hand or overnight express service or upon the earlier to occur of (i) actual receipt as indicated on the signed receipt, or (ii) three (3) days after posting as herein provided, in the case of delivery by mail in the manner provided above. All notices given hereunder shall be addressed to the parties hereto at their respective addresses set out in Sections 1.2 and 1.4 above and a copy to Tenant at the Demised Premises, or at such other addresses as they have theretofore specified by written notice. It is further agreed that no notice to the Tenant shall be effective unless two (2) separate written notices are sent to both the President and Vice President of Real Estate, as set forth in Section 1.4.

ARTICLE 22 - ENVIRONMENTAL REGULATIONS

22.1 Environmental Definitions. For purposes of this Article, the following terms shall have the following meanings:

22.1.1 "Hazardous Materials" shall mean any substance the presence of which on the Demised Premises is regulated by any Governmental Requirements (as hereinafter defined), including but not limited to (i) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), as amended from time to time, and any regulations promulgated thereunder; (ii) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) ("CERCLA" or "SuperFund"), as amended from time to time, and any regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) any petroleum-based products; and (vi) underground storage tanks, whether empty, filled or partially

filled with any substance.

22.1.2 "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city or any other political subdivision in which the Demised Premises is located and any other political subdivision, agency or instrumentality exercising jurisdiction over the Tenant or the Demised Premises.

22.1.3 "Hazardous Materials Contamination" shall mean the contamination of the improvements, facilities, soil, ground water, air, or other elements on, over or under the Demised Premises by Hazardous Materials, or the contamination of the improvements, facilities, ground water, air or other elements on, over or under any other property as a result of Hazardous Materials at any time emanating from the Demised Premises.

22.2 Landlord's Environmental Protection. Landlord agrees that Landlord shall not receive, store, dispose or release any Hazardous Materials on or in the Shopping Center, transport any Hazardous Materials to or from the Shopping Center or permit the existence of any Hazardous Materials Contamination in or on the Shopping Center or allow or permit any other person or Tenant to do so. If Landlord acquires knowledge of the presence of any Hazardous Materials or Hazardous Materials Contamination on, under or in the Shopping Center or of the transportation of any Hazardous Materials, Landlord shall give written notice to the Tenant with a full description thereof. Landlord agrees to comply with any and all Governmental Requirements requiring the removal, treatment or disposal of Hazardous Materials or Hazardous Materials Contamination caused directly or indirectly by the Landlord, its owners, directors, officers, licensees, invitees and assignees, all at Landlord's sole cost and expense, and provide Tenant with satisfactory evidence of any such compliance. If the Landlord causes (directly or indirectly) or knowingly or negligently permits the receipt, storage, disposal or release of any Hazardous Materials or Hazardous Materials Contamination on, under, over or in the Demised Premises or Shopping Center (except where caused by Tenant), Landlord shall promptly remove, treat and dispose of such Hazardous Materials or Hazardous Materials Contamination and clean up the affected property and provide the Tenant with evidence satisfactory to Tenant of such removal, treatment, disposal and/or clean up.

22.3 Tenant's Environmental Protection. Tenant agrees that Tenant shall not receive, store, dispose or release any Hazardous Materials on or in the Demised Premises or Shopping Center, transport any Hazardous Materials to or from the Demised Premises or Shopping Center or permit the existence of any Hazardous Materials Contamination in or on the Demised Premises or Shopping Center. If Tenant acquired knowledge of the presence of any Hazardous Materials or Hazardous Materials Contamination on, under or in the Demised Premises or Shopping Center or of the transportation of any Hazardous Materials to or from the Demised Premises or Shopping Center, Tenant shall give written notice to the Landlord immediately with a full description thereof. Tenant agrees to comply with any and all Governmental Requirements requiring the removal, treatment or disposal of Hazardous Materials or Hazardous Materials Contamination caused directly or indirectly by the Tenant, its owners, directors, officers, licensees, invitees and assignees, all at Tenant's sole cost and expense, and provide Landlord with satisfactory evidence of any such compliance. If the Tenant causes (directly or indirectly) or knowingly or negligently permits the receipt, storage, disposal or release of any Hazardous Materials or Hazardous Materials Contamination on, under, over or in the Demised Premises or Shopping Center (except where caused

by Landlord), Tenant shall promptly remove, treat and dispose of such Hazardous Materials or Hazardous Materials Contamination and clean up the affected property and provide the Landlord with evidence satisfactory to Landlord of such removal, treatment, disposal and/or clean up.

22.4 Deminimis Amounts. Notwithstanding the foregoing, neither Landlord nor Tenant shall be in default under this Article if either Landlord or Tenant receives, stores, disposes or releases any substances that are technically Hazardous Materials but that are commonly found at the place of business of operations similar to Landlord's or Tenant's, respectively (e.g. copier toner, cleaning supplies, pest control chemicals), provided that (i) the quantities of such substances are normal and customary for such operations and (ii) such materials are handled, stored, disposed and released in accordance with all Governmental Requirements.

22.5 Environmental Indemnity. Tenant hereby indemnifies, defends and saves harmless the Landlord Parties from and against any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fees, fines, penalties, losses, damages, expenses or costs, including interest, court costs and attorneys' fees (collectively the "Claims") incurred or suffered by the Landlord Parties or any of them (a) that is incurred or imposed based upon any Governmental Requirement and that arises out of any act or omission of the Tenant, its owners, directors, officers, employees, agents, contractors, invitees, licensees or assignees, or (b) that otherwise arises by the breach by the Tenant, the Tenant's owners, directors, officers, employees, agents, contractors, invitees, licensees or assignees, of any representation, warranty or covenant in this Article 22. Landlord hereby indemnifies, defends and saves harmless the Tenant Parties from and against any Claims incurred or suffered by the Tenant Parties or any of them (a) that is incurred or imposed based upon any Governmental Requirement and that arises out of any act or omission of the Landlord, its owners, directors, officers, employees, agents, contractors, invitees, licensees or assignees, or (b) that otherwise arises by the breach by the Landlord, the Landlord's owners, directors, officers, employees, agents, contractors, invitees, licensees or assignees, of any representation, warranty or covenant in this Article 22. This indemnification by both the Landlord and Tenant shall survive the termination or expiration of this Lease.

ARTICLE 23 - MISCELLANEOUS

23.1 Relationship Between Parties. Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of a partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

23.2 Independent Obligations. Tenant shall not for any reason withhold or reduce Tenant's required payments of Rent and other charges provided in this Lease, it being agreed that the obligations of Landlord hereunder are independent of Tenant's obligations.

23.3 Consent of Parties. Except as may be otherwise herein provided, in all circumstances under this Lease where prior consent or permission of one party ("first party"), whether it be Landlord or Tenant, is required before the other party ("Second party") is authorized to take any particular type of action, the matter of whether to grant such consent or permission shall be within the sole and exclusive judgment and discretion of the first party; and it shall not constitute any nature of breach by the first party hereunder or any defense to the performance of any covenant, duty or obligation of the second party hereunder that the first party delayed or withheld the granting of such consent or permission, whether or not the delay or withholding of such consent

or permission was, in the opinion of the second party, prudent or reasonable or based on good cause.

23.4 No Waivers. One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

23.5 Force Majeure. Except for Sections 1.7 and 3.2, whenever a period of time is herein prescribed for action to be taken by either Landlord or Tenant, Landlord and Tenant shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes (not caused by such party), riots, acts of God, shortages of labor or materials, war, governmental laws, regulations or restrictions or any other causes of a similar kind which are beyond the reasonable control of Landlord and/or Tenant, except that adverse financial or economic conditions shall not be included.

23.6 Certifications. Intentionally deleted.

23.7 Governing Law. The laws of the State of Illinois shall govern the interpretation, validity, performance and enforcement of this Lease. If any provision of this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

23.8 Attorneys' Fees. In the event of a dispute hereunder and either party institutes an action or proceeding against the other, the prevailing party in such action or proceeding shall recover reasonable attorneys' fees and court costs from the other.

23.9 Captions. The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

23.10 Genders. Whenever herein the singular number is used, the same shall include the plural and words of any gender shall include each other gender.

23.11 Successors. The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, assigns (when permitted under the terms of this Lease) and legal representatives, except as otherwise herein expressly provided.

23.12 Entire Agreement. This Lease contains the entire agreement between the parties, and no agreement shall be effective to change, modify or terminate this Lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought. Landlord and Tenant hereby acknowledge that they are not relying on any representation or promise of the other, except as may be expressly set forth in this Lease.

23.13 Severability. If any provision of this Lease or the application thereof to any person, entity or circumstance is to any extent invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and enforceable to the extent permitted by law.

23.14 Time of the Essence. In all instances where tenant is

23.15 Brokerage. Tenant warrants that it has had no dealing with any broker or agent in connectin with this Lease and covenants to pay, hold harmless and indemnify Landlord form and against any and all cost, expesne or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Lease or the negotiation thereof. Likewise, Landlord warrants that it has had no dealing with any broker or agent in connection withy this Lease and covenants to apy, hold harmless and indemnify Tenant from and agains tany and all cost, expense or liabilty for any compensaiton, commissions and charges claimed by any broker or agent with respect to this Lease or the negotiation thereof.

EXECUTED as of the date hereinabove stated.

LANDLORD:

WESTGATE, INC., an Illinois corporation

BY: Betty P. Brassfield
NAME: BETTY P. BRASSFIELD
TITLE: PRES.

TENANT:

PALAIS ROYAL, INC. a Texas corporation

BY: Mel Ward
Mel Ward, Vice President - Real Estate

EXHIBIT A - LEGAL DESCRIPTION

(TO BE SUPPLIED BY LANDLORD)

The West Seventy (70) feet of the North two hundred (200) feet of Lot Five (5) in Cephas Williams Addition to Streator; also a tract described as commencing at the Northwest corner of said Lot Five (5), running thence West seventy (70) feet, thence North eighteen and seventy-five hundredths (18.75) feet, thence West twenty (20) feet, thence South seventy-four and seventy-five hundredths (74.75) feet, thence East sixty (60) feet, thence South one hundred forty-four feet (144) thence East thirty (30) feet, thence North two hundred (200) feet to the place of beginning, all in the County of La Salle and State of Illinois.

1990

Plot Plan
This Diagram
Is Approximate

Westgate
(Lessor)
owns
vacant land

Main St.
One Way

Route 18 West

Right of Way →.

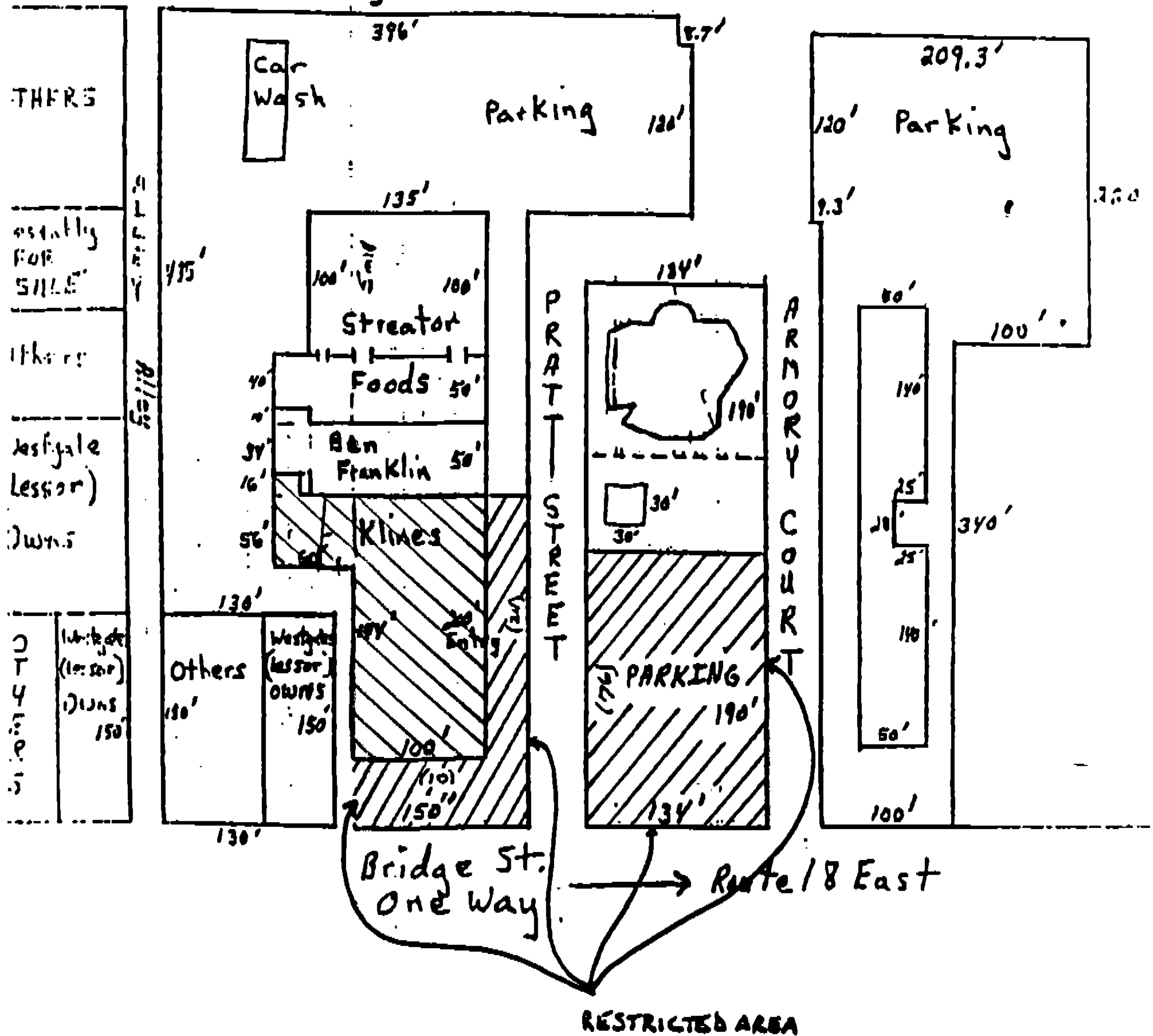


EXHIBIT C - CONSTRUCTION RIDER

LANDLORD'S AND TENANT'S WORK

LANDLORD'S WORK

1. **Landlord's Work.** None.
2. **Tenant's Plans.**
 - A. **Tenant's Architect.** Tenant, at Tenant's sole cost and expense, shall employ an architect and/or designer, who along with Tenant shall prepare and submit to Landlord plans, specifications, lists and drawings describing Tenant's desired improvements to the Demised Premises.
 - B. **Preliminary Plans.** Tenant's architect shall, at Tenant's sole cost and expense, prepare and submit to Landlord for Landlord's approval a preliminary set of proposed plans, specifications, lists and drawings for the Demised Premises (the "Preliminary Plans and Specifications"). If Landlord objects to the Preliminary Plans or Specifications or any revision thereof, such consent not being unreasonably withheld or delayed, Tenant shall deliver revised Preliminary Plans and Specifications to Landlord and such procedure will be repeated, if necessary, until a final plans and specifications are approved. The final approved plans and specifications are herein referred to as the "Tenant Plans and Specifications."
3. **Changes.** There shall be no changes to Tenant's Plans and Specifications unless and until both parties agree to such change in writing.
4. **Inspections.** Landlord shall have the right from time to time during the performance of the Tenant's Work to enter upon and inspect the Demised Premises to ensure that the same is being performed in accordance with the terms of the Lease and the Tenant's Plans and Specifications.
5. **Tenant's Work.** Tenant shall after the delivery of the Demised Premises to Tenant promptly commence the Tenant's Work set forth on Tenant's Plans and Specifications, at Tenant's expense. Tenant's Work shall be completed before the Commencement Date.
6. **Conflicts and Conformity With Lease.** Any rights and obligations of Landlord and Tenant relative to any matter not stated in this Exhibit "C" shall be governed by the Lease. If there shall be any conflict between this Agreement and the Lease, the provisions of this Agreement shall prevail in the event of such conflict. As used herein, each term not defined herein shall have the same meaning given to such term in the Lease.
7. **Construction Key Dates and Deadlines.** The Landlord and Tenant each agree to comply with the construction dates and deadlines set forth on the Schedule attached hereto as Exhibit "D" and incorporated herein and in the Lease for all purposes.

EXHIBIT D - CONSTRUCTION KEY DATES AND DEADLINES

Construction Contacts:

Landlord: Name
 Address
 City/St/Zip
 Phone No.

Tenant: Name James Murphy
 Address 726 Meyerland Plaza
 City/St/Zip Houston, TX 77096
 Phone No. (713) 660-3274

	Required Completion Date
Landlord Deliver Demised Premises to Tenant	April 15, 1995
Tenant Submit to Landlord Plans, Specifications & Drawings	N/A
Final Approval of Tenant Plans, Specifications & Drawings*	N/A
Landlord to Complete Landlord's Work in or on Demised Premises (exterior and interior)	N/A
Landlord to Complete Landlord's Work in the Common Areas and on the Shopping Center (exclusive of the work on the Demised Premises)	N/A
Tenant Notify Landlord of Punchlist	N/A
Landlord to Complete Punchlist	N/A
Store Opening	August 3, 1995

- * If Landlord and Tenant fail to agree on Plans by _____ 1, 199____, either party may cancel this lease with no further obligations or liability.

EXHIBIT E - LANDLORD'S/TENANT'S WORK SUMMARY

Work to be Performed	Performed by	Paid by	N/A	As Is
1. Landlord will provide tenant with a construction allowance of \$_____ per sq. ft. of G.L.A.			N/A	
2. Demolition as necessary of the existing demised premises to provide a clean workable environment for tenant finish work.				As Is
3. Provide clean floor slab to receive tenant's work.	T	T		
4. Demised walls taped & floated & finished (painting of wall covering) per tenant's plans & specifications.	T	T		
5. Provide all utilities to the demised space sufficient to meet the requirements per the Tenants plans & specifications.				As Is
6. Tenant agrees to use existing HVAC system and Landlord agrees to maintain & keep in repair existing HVAC systems as necessary during the Lease Term as described in Paragraph 12.4	LL	LL		
7. Complete revised store front work including relocating front door(s) if necessary, & removing and/or replacing existing store front windows and materials as necessary per mutually agreed upon plans.	T	T		
8. Construct interior partitions walls per tenant's plans and specifications, & furnish & install perimeter garcy stud system per tenant's plans & specifications.	T	T		
9. Provide all exterior doors and/or hardware per tenant's plans & specifications.	T	T		
10. Furnish & install all interior doors & door hardware per tenant's plans & specifications.	T	T		
11. Furnish & install ceiling grid & tiles and/or replace ceiling tiles and/or refinish ceiling grid per tenant's plans & specifications.				As Is

Work to be Performed	Performed by	Paid by	N/A	As Is
12. Provide lighting throughout demised premises as specified per tenant's plans and specifications delivering a minimum of 50 ft. candles throughout the selling area and increased foot candles as specified at feature walls and perimeter walls.	T	T		
13. Rework as necessary and/or install new restrooms per agreed to plans and specifications that meet all ADA requirements.	T	T		
14. Provide sprinkler systems as necessary to satisfy all appropriate codes.	T	T		
15. Provide electrical service as necessary per plans and specifications. Rework or provide new service as necessary. All breakers to be labeled.	T	T		
16. Install tenant supplied Andover Eight Energy Management System per tenant's specifications.	T	T		
17. Provide and install flooring through entire demised premises per tenant's plans and specifications.	T	T		
18. Furnish and install telephone and sound system.	T	T		
19. Furnish and install exterior store front signage. Letters to be 5'-5.5' high.	T	T		
20. Enforce and/or install uniform small tenant signage criteria among adjacent tenants in the Shopping Center.			N/A	
21. Provide and install pylon sign per agreed to criteria and specifications at location indicated on site plan.	T	T		
22. Provide and/or resurface and restripe parking lot per agreed to plans.			N/A	
23. Refinish the shopping center fascia including repainting or reworking of the entire face of the Shopping Center.			N/A	

14.1 Notice of Loss. Tenant shall give immediate written notice to Landlord of any damage caused to the Demised Premises by fire or other casualty.

14.2 50% or Less Damage. In the event that 50% or less of the floor area of the Demised Premises shall be damaged by fire or other casualty (or 25% or less if there remains less than three Lease Years in the then existing Lease Term, and Tenant refuses to exercise any available extension option in accordance with Article 2 hereof), Landlord shall cause such damage to be repaired, and the Premises to be restored to the condition in which the Demised Premises were in immediately preceding such casualty (including the Landlord's Work and that portion of the Tenant's Work that are leasehold improvements, as opposed to furniture, trade fixtures, equipment and other removable items). Landlord shall commence such repair, restoration and reconstruction within sixty (60) days after the occurrence of such fire or other casualty, and Landlord shall complete the same within a reasonable time thereafter (but in no event later than one hundred twenty (120) days from the date of the commencement of such repairs, restoration and reconstruction), the Landlord diligently pursuing such repairs, restoration and reconstruction to completion. If Landlord fails to commence such restoration within the 60-day period, or faithfully perform its obligations hereunder, the same shall be an Event of Default and the Tenant shall have the right to terminate this Lease immediately by giving notice to the Landlord.

14.3 More Than 50% Damage. In the event that more than 50% of the floor area of the Demised Premises shall be damaged by fire or other casualty (or more than 25% if there remains less than three Lease Years in the then existing Lease Term, and Tenant refuses to exercise any available extension option in accordance with Article 2 hereof), then Landlord or Tenant may elect to terminate this Lease. If either party elects to terminate this Lease, such party shall so notify the other within sixty (60) days after the occurrence of such damage or destruction, and if notice of such termination is not given within said 60-day period, Landlord shall be obligated to repair, restore and reconstruct the Demised Premises (including the Landlord's Work and that portion of the Tenant's Work that are leasehold improvements, as opposed to furniture, trade fixtures, equipment and other removable items) and the Shopping Center to the same condition in which they existed immediately prior to such damage or destruction. Landlord shall commence and complete such repairs, restoration and reconstruction in accordance with the terms of Section 14.2 above.

14.4 Damage to Shopping Center. In the event that 50% or more of floor area of the buildings of the Shopping Center shall be damaged or destroyed by fire or other casualty (or 25% or more if there remains less than three Lease Years in the then existing Lease Term, and Tenant refuses to exercise any available extension option in accordance with Article 2 hereof), Landlord or Tenant, at their sole discretion, may elect to terminate this Lease by giving the other party written notice of termination within sixty (60) days following the date of such damage or destruction. If notice of such termination is not given within said 60-day period, or if neither party has the right to terminate the Lease hereunder, Landlord shall be obligated to repair, restore and reconstruct the Shopping Center to the same condition in which it existed immediately prior to such damage or destruction. Such repairs, restoration and reconstruction shall be performed in accordance with the terms of Section 14.2 above.

14.5 Abatement of Rental. In the event that this Lease is not or cannot be terminated after damage to the Demised Premises or the Shopping Center buildings as provided herein, all Rent, except Percentage Rent (to the extent that Tenant remains open for business), shall be abated from the date of such casualty through the date that is sixty (60) days after the date that the Landlord notifies Tenant that the Demised Premises (including the Landlord's Work and that portion of the Tenant's Work that is to be restored) have been repaired, restored and reconstructed and the Tenant's architect has certified the same in writing to Landlord and Tenant.

AGREEMENT SETTING LEASE TERM

THIS AGREEMENT, made this the 15th day of August, 1995, by and between WESTGATE, INC., an Illinois corporation, hereinafter referred to as Landlord, and SPECIALTY RETAILERS, INC., a Delaware corporation, hereinafter referred to as Tenant.

WITNESSETH:

WHEREAS, under the terms of a Lease Agreement, dated April 12, 1995, Tenant leased from Landlord certain premises containing a floor area of an approximate 23,735 square feet in the Westgate Plaza Shopping Center, Streator, Illinois;

WHEREAS, said Lease Agreement, by its provisions, established the length of the Lease Term but did not show the actual commencement and termination dates, as such dates could not at that time be determined;

NOW, THEREFORE, Landlord and Tenant agree that the term of said Lease commenced on July 27, 1995, and shall terminate on January 31, 2006, unless otherwise terminated or extended as provided for in said Lease.

IN WITNESS WHEREOF, the parties have hereto set their hands the date first shown above.

LANDLORD:

WESTGATE, INC., an Illinois corporation

By: Jeffrey C. Williams
Name: Jeffrey C. Williams
Title: Secretary

TENANT:

SPECIALTY RETAILERS, INC.,
a Delaware corporation

Mel Ward
Mel Ward
Vice President Real Estate